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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,510	11/14/2003	Thomas M. Sauter	KCOS121897	9834
26389 7590 12/21/2006 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			EXAMINER VANAMAN, FRANK BENNETT	
			ART UNIT	PAPER NUMBER
			3618	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/714,510

Applicant(s)

SAUTER, THOMAS M.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) 4-14, 21 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 15, 17, 19, 23, 27, 28 is/are rejected.
- 7) ☒ Claim(s) 3, 16 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov. 13, 2006 has been entered.

### **Status of Claims**

2. Claims 1-17 and 19-29 are pending, with claims 27-29 being newly added. Claims 4-14, 21 and 22 are withdrawn from consideration as being directed to (a) non-elected species.

### **Claim Rejections - 35 USC § 112**

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 17, line 5, the recitation of a movable end of the ankle strap allowing lengthening and shortening of the toe strap is confusing.

### **Claim Rejections - 35 USC § 102**

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 15, 17, 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Bumgarner (US 5,758,895, cited previously). Bumgarner teaches a binding system including a toe strap (6, 61, 62, 63) for securing a forward boot portion, the strap having a movable end (proximate 18) connected to a linkage (front end of 8), so that the toe strap may be shortened or lengthened, an ankle strap (4, 41, 42, 43) for securing an instep boot portion, having a movable end (proximate 20) connected to a linkage (rear of 8), the linkage being the same linkage having forward and rearward linkage portions, each of the straps having an operable fastener (41, 42; 61, 62) which

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can shorten or lengthen the respective strap, and wherein the motion of the linkage causes a change in the length of the other strap - e.g., a change in length set by 41, 42 wherein the linkage is not engaged at 12, with a boot present, will cause an extending or retracting motion of portion 20, and a corresponding extending or retracting of 18, with portion 81 of the linkage connected to portion 10; the linkage including a stop block portion (81) proximate the end connected to the toe strap, the location of the block and the interaction of block 81 and binding portion 10 setting the relative movements of the linkage and respective connected strap portions; the binding further including a biasing element (103) which prevents outward motion of the linkage when engaged, resisting its outward travel to the breadth claimed, the linkage connecting the ankle and toe straps such that motion of one end of on strap causes motion of the corresponding end of the other strap.

6. Claims 1, 17, 19, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Laughlin (US 5,692,765, cited previously). Laughlin teaches a binding having a toe strap (16) with a movable end (70) allowing it to be lengthened and shortened, and connected to a first linkage (56), an ankle strap (18) having a movable end (72) connected to a linkage (58) to allow it to be lengthened and shortened, the linkages being different linkages connected to one another (by 32), an operable fastening device (57 or 74) on either the toe or ankle strap, wherein a moving of the fastener allows a lengthening or shortening of the respective strap (i.e., by manual motion), wherein the connection of the linkages (at 32) allows lengthening of the other of the straps - e.g., a lengthening motion exerted on a fastener (57 or 74) with the connecting element between the linkages (32, 34) in a non-locked condition causes a corresponding lengthening motion of the connecting element (i.e., 34 moves down) allowing a lengthening in the other of the linkages (56, if 74 is moved, or 58 if 70 is moved), wherein the linkage comprises cables.

#### **Allowable Subject Matter**

7. Claims 24-26 and 29 are allowed.

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8. Claims 3, 16 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Response to Comments**

9. Applicant's comments, filed with the amendment, have been carefully considered. Applicant has argued that Bumgarner does not teach a fastener on one or the other of the straps, that allows shortening or lengthening of both straps upon its operation. The examiner disagrees. Note, as an example, that a change in length set by 41, 42 wherein the linkage 8 is not engaged at 12, with a boot present, will cause an extending or retracting motion of portion 20, and a corresponding extending or retracting of 18, under the condition of portion 81 of the linkage being connected to portion 10. Applicant has argued that Laughlin fails to teach a fastener on one of the ankle and toe straps wherein motion of the fastener causes lengthening or shortening of both straps. Note, as an example, Laughlin includes an operable fastening device (57 or 74) on each of the toe and ankle strap, wherein a moving of the fastener (57 or 74) allows a lengthening or shortening of the respective strap (i.e., by manual motion), wherein the connection of the linkages at 32/34 allows lengthening of the other of the straps - e.g., a lengthening motion exerted on a fastener (57 or 74) with the connecting element between the linkages (32, 34) in a non-locked condition causes a corresponding lengthening motion of the connecting element (i.e., 34 moves down) allowing a lengthening in the other of the linkages (56, if 74 is moved, or 58 if 70 is moved). The substantial breadth of applicant's claim recitations allows the interpretations set forth above.

### **Conclusion**

10. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for

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unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

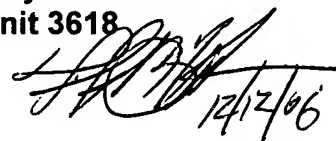
A response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



12/12/06